

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Elliott Hatton, #158373,)	C/A No.: 0:05-2955-JFA-BM
)	
Petitioner,)	
v.)	ORDER
)	
Attorney General for the State)	
of South Carolina,)	
Respondent.)	
_____)	

The petitioner, Elliott Hatton (“petitioner” or “Hatton”), a state prisoner proceeding without the assistance of counsel, seeks *habeas corpus* relief under Title 28, United States Code, Section 2254. By definition, the relief which he seeks must be based upon a finding that he is being illegally detained in violation of the Constitution or laws or treaties of the United States. 28 U.S.C. § 2241(c)(3).

This matter is before the court for review of the Magistrate Judge’s Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection

is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

The respondent filed a motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. The petitioner was advised of the summary judgment procedure and the need to adequately respond to the motion pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975). The petitioner did not respond to the motion for summary judgment.

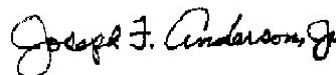
The Magistrate Judge has filed a detailed and comprehensive Report and Recommendation suggesting that the respondent's motion for summary judgment should be granted. The parties were advised of their right to file specific objections to the Report and Recommendation. Within the time limits prescribed by the Local Rules for this District, neither party has filed objections to the Report.

The court has carefully considered the law in this case, the record, and the Report and Recommendation of the Magistrate Judge, and has determined that the Magistrate Judge's recommended disposition should not be disturbed. The court concurs with both the reasoning used and recommendation of the Magistrate Judge and incorporates the Report herein.

Accordingly, the respondent's motion for summary judgment is granted.

IT IS SO ORDERED.

September 15, 2006
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge